

GIRARD
SHARP

May 17, 2024

VIA ECF

The Honorable P. Kevin Castel
United States District Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Courtroom 11D
New York, New York 10007

Re: *In re Google Digital Advertising Antitrust Litigation, 1:21-md-03010 (PKC);*
In re Google Digital Advertising Antitrust Litigation, 1:21-cv-7001 (PKC)

Dear Judge Castel:

We write as interim co-lead counsel for the proposed class of advertisers, in reply to Google's partial opposition to the Advertisers' Motion for Leave to Serve Case-Specific Interrogatories. (ECF No. 786.) Google challenges only Interrogatories 14 and 15. (ECF No. 799.) Interrogatory 14 seeks the number of AdX auctions won by small advertisers, and Interrogatory 15 seeks information on how many of these auctions were affected by the key auction dynamics noted in the Advertisers' complaint. This information is central to Advertisers' case, does not duplicate any previously served request for production, and has not been addressed by data produced by Google. The next conference is set for May 21, 2024.

Google claims that the two Interrogatories duplicate "MDL Common RFPs" but identifies only a single RFP related to Interrogatory 14. Google refused to produce any data in response to this RFP (No. 243) besides total impressions, clicks, and amounts paid. The data thus does not correspond to this Interrogatory. As for Interrogatory 15, Google does not claim to have produced *any* responsive data. As a result, although Advertisers have diligently analyzed hundreds of terabytes of data produced by Google, that data does not answer the basic information sought through Interrogatories 14 and 15.

While Google produced a voluminous data set regarding certain AdX auctions, that date only covered a single week in 2022—a very limited time period—and Google maintains that it cannot produce similar data for the class period. But if, as Google appears to concede, it can answer Plaintiffs' Interrogatories by producing additional data, then it may respond under Rule 33 by producing such data and "specifying the records that must be reviewed" to provide satisfactory answers. Fed. R. Civ. P. 33(d)(1). Given Google's inability or unwillingness to produce such data, these Interrogatories represent "a more practical method of obtaining the information sought than a request for production or a deposition." L.R. 33.3(b)(1). The Court should, therefore, grant the Motion in full.

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Respectfully submitted,

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